

kind of information to which they are given access.

It is access to information that is at the heart of the section 1071 program. And the notion that access to that information ought to come from as many places as we can manage, to the extent that section 1071 has had a positive effect in encouraging diversity of voice, encouraging diversity of ownership, allowing women and minorities a chance to participate in an industry in which they were historically deliberately excluded, it had a salutary effect and meaning and reason, and it is something that we should protect and preserve in this body, and not otherwise.

I think it is unfortunate that this retroactive repeal has been associated with this important health care initiative. I think it is something that I intend to continue to fight. And I hope, that as we move down the road in consideration of this tax legislation, we will not lose the one opportunity we had to unlock the door, to provide opportunity as a way of responding to concerns that may be misplaced, to concerns that need to be articulated and talked about, but concerns that we really have not looked closely enough at to see the benefit for all Americans.

And so I hope that the health care deduction passes. I want to support that. I want to help that. But on section 1071, the fight is not over. The fight continues.

I hope that what has happened here with regard to this retroactive repeal is a wake-up call to women, to minorities, to people in this country who care about diversity, who think that it is important, that we cannot sit back. And, as complex as this issue may seem, fundamentally it is a very simple one. It is an issue of whether or not the airwaves of this country are for all Americans or for some Americans. I believe that inclusion and diversity is the strength of our country and not otherwise, and I will fight to maintain access to the airwaves for all Americans.

Thank you, Mr. President.

Mr. MOYNIHAN addressed the Chair. The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I most emphatically wish to state the debt in which we all find ourselves to the Senator from Illinois for her powerful and persuasive statement; her first on this particular subject, but not, I dare think and hope, her last.

We will continue now with this debate.

Mr. President, I yield 5 minutes to my friend and colleague, the senior Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I thank my good friend, as well, the senior Senator from New York.

Mr. President, in Montana, we have a saying—"it's not what you say, it's what you do."

For too long, Members of Congress said they only wish they could perma-

nently extend the health insurance premium for the self-employed but that they didn't have the money to get the job done.

For too long, Members said they wanted to increase the deduction beyond 25 percent—but they did not have the money.

Today, we will vote on legislation that, at long last, permanently extends the health insurance premium deduction for the self-employed, and increases it from 25 to 30 percent for 1995 and afterward.

What does this mean back home? Well, this is real. This means farmers and small business people get relief.

I heard from Randy Koutnik in Helena who was planning to go into his own business. He needed the deduction so he could continue to afford health insurance coverage. I think this legislation is needed. It will help Randy, and many other hardworking, gutsy entrepreneurs like him start out on their own.

Polly Burke of Missoula called me up to say how angry she was that self-employed individuals were losing their 25-percent health insurance premium deduction while corporations kept their 100-percent deduction. And I think Polly is right to be angry.

Today we will take a first step to help Polly, Randy, and all self-employed across America.

My only complaint is that we should have acted earlier. For the cash-basis farmers who had to pay their taxes by March 1, Congress is 3 weeks late.

It is true that those farmers can amend their returns and collect a refund. But amending the return will take time and, unless their accountants work for free, will cost these farmers money. Probably 30 to 50 bucks apiece.

But with today's action, Congress will at least do the right thing.

We will permanently extend the health insurance premium deduction so Montana farmers, small business people, and all of America's self-employed have at least one less thing to worry about in the years ahead.

Mr. President, I intend to vote for this legislation and I strongly encourage my colleagues to vote for it. And I will push hard to make sure it gets to the President's desk fast, so the deduction is available to all the self-employed filing their tax returns before April 17.

I thank the Chair, and I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Oregon [Mr. PACKWOOD] for deferring to me briefly so that I might make a brief statement.

BLACK HUMOR

Mr. BYRD. Mr. President, a cartoon by Mr. Garry Trudeau appeared in the

Washington Post last Sunday, March 19, 1995, and I assume in many other newspapers, in which he is syndicated, a cartoon which is an unfortunate example of tasteless, offensive, black humor. It belittles the war record, bravery, and selfless sacrifice of the distinguished majority leader, Mr. DOLE, by ridiculing the wounds he suffered and still carries, and always will, from the Italian campaign of World War II. The war record of all elected officials is usually a matter of some attention during political campaigns, and Mr. DOLE is no exception. But why anyone would take an excursion into cynical dark cartoon humor over this is incomprehensible and inexcusable.

Our political system and culture must be based on civility, mutual respect and honor. The discourse and debate in Presidential campaigns, indeed any campaign, should properly focus on the positions of the candidates on the major issues of the day, and what solutions are being offered. We have had too much of personal attacks, negative campaigning, and the politics of cynicism in America in recent years. I think it would be beneficial if we all tried a little more to elevate the political discourse in America, and that we focus on where we should, constructively, lead the Nation. Our attitude should certainly be positive and, while we differ on many issues, strive for un-failing courtesy and respect.

Mr. DOLE carries with him the symbol and the physical result of his valor in combat, defending our country, defending the very ability of cartoonists to exercise their trade in freedom, and our very ability to conduct an honorable, civil, enlightened debate in a democracy. Mr. DOLE has dedicated his entire life to the service of the Nation. Mr. Trudeau, I believe, owes Mr. DOLE an apology for this entirely inappropriate attack and innuendo.

Mr. President, I yield the floor.

SELF-EMPLOYED HEALTH INSURANCE COSTS DEDUCTION

The Senate continued with the consideration of the bill.

MATERIAL TERMS UNDER THE BINDING CONTRACT EXCEPTION IN H.R. 831

Ms. MOSELEY-BRAUN. Mr. President, I rise to request a clarification to a provision in H.R. 831 relating to the binding contract exception to the repeal of section 1071.

Binding contract exceptions to changes to the tax laws are commonly included in tax legislation to protect taxpayers who, in reliance on the laws, entered into legally binding agreements prior to the effective date of the statutory change but where the transaction itself will not be completed until after that effective date. H.R. 831 includes such a binding contract exception to the repeal of section 1071. The intent of this exception is to honor taxpayers' good faith reliance on the law.

The binding contract exception in this bill, however, would not apply if

the contract, or the material terms of the contract, are contingent on issuance of an FCC tax certificate. It is not clear what would constitute a material term being contingent on the issuance of an FCC tax certificate for purposes of this legislation.

It is important that we provide the FCC and the Internal Revenue Service with appropriate guidance in determining whether a contract for the sale of a broadcasting station qualifies for the binding contract exception to the repeal of section 1071 and therefore eligible for an FCC tax certificate. If a transaction contemplates a third-party action, such as the FCC issuing a tax certificate, but the contract requires that the transaction go forward even if the third-party action does not occur, it is only reasonable that the parties to the agreement provide in that agreement for a relatively minor adjustment to offset the effects of the failure of the third-party to act. Such a contract clearly is still binding—the transaction must go forward with the contract-required adjustment. It is my understanding that the “material terms” of a contract are not to be considered contingent on the issuance of an FCC tax certificate simply because the parties provided for a relatively minor adjustment of less than 10 percent of the selling price if the FCC certificate is not issued. Is this consistent with your understanding of what is intended by the clause “or the material terms of such contract”?

Mr. PACKWOOD. Yes, the clause “or the material terms of such contract” is not intended to exclude binding contracts from the benefits of the legislation's binding contract rule simply because the parties included a relatively minor price adjustment of less than 10 percent in the original binding contract to compensate for the failure of the FCC to issue a tax certificate.

Mr. President, we are waiting for Senator DOLE to come, and then we will be ready to close up on this bill, I believe. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. Mr. President, I am here to support this proposal and to praise the Finance Committee and those in the House of Representatives who thought of a way in which to do justice on both sides of the equation of a tax proposal and to provide an extension and ultimately an increase in an overwhelmingly just—but still inadequate—deduction for the health care expenses of the self-employed.

For many years, the Tax Code has permitted a modest deduction of 25 percent of the health care insurance costs of the self-employed—modest, of

course, in comparison with the very, very large number of Americans who have health care insurance premiums paid for by their employers, fully deductible to those employers. Yet, even this 25-percent deduction for the self-employed, for hard-working Americans in small towns and large cities and on farms across this country, is threatened. It has for years been a deduction with a terminal point. In every previous year in which that terminal point was reached, the Congress has extended the deduction for a few more years.

In 1994, it did not do so and technically there is no such provision today. There will be, however, if this bill passes. A deduction will be effective for the current year and will move up modestly from 25 to 30 percent next year. I believe that almost every Member of this body hopes that the time will come that, with a more sound and all-encompassing set of health care reforms, we will be able to allow the deduction of 100 percent of such health care insurance costs. In the meantime, however, to extend the present deduction and modestly to increase the present deduction is clearly overwhelmingly in the public interest.

Standing alone, that would not be a difficult task, except for its effect on the budget deficit. It is here that the thoughtfulness and the genius of the sponsors of this bill are in particular evidence. This bill is going to be paid for by four changes in the Internal Revenue Code, three of which are of considerable significance with respect to the amount of money that they produce.

The first is a denial of the earned-income tax credit to those who have substantial unearned income; that is to say, investment income. The earned-income tax credit, of course, is designed to see to it that the working poor—those who are trying to move out of poverty, who are below the level at which they would normally pay an income tax—literally get some money back from the Government as a reward for that work. To allow it, however, to those who have low levels of earned income but significant levels of unearned income is, of course, a perversion of the whole design of the earned-income tax credit itself. So this narrowing, this focus of the earned-income tax credit on those who are truly the working poor is a matter of tax justice and fiscal equity without regard for its use for this health care insurance deduction.

Second, we are for the first time actually going to penalize those Americans, those I think perverse Americans, who renounce their citizenship in order to save on taxes. They will be hit when they renounce that citizenship with what amounts to a capital gains tax on the assets they take with them out of the United States. The Finance Committee, I should note, has said that this provision is not designed to be a direct offset against the health care in-

surance premium deduction for the self-employed, but literally to be a modest contribution to our budget deficit.

The most significant of the tax changes, of course, is the cancellation of section 1071 of the Internal Revenue Code, which started out as a recognition of forced sales some 50 or more years ago, when we first developed rules that did not allow more than one radio station, in that case, to be owned by the same people in the same community; but since, that has become a rather famous and notorious form of affirmative action.

This provision, of course, was triggered by a huge sale involving Viacom and one member of a minority group, the cost of which to the Federal Treasury would be over half a billion dollars. It may very well have been one of the triggering causes of the attention being paid today to the whole subject of affirmative action. Yet, I think it is safe to say that this provision should be repealed without regard to the varying views of Members of this body and of the public as a whole on affirmative action overall. The kind of affirmative action that benefits one quite successful and fairly wealthy member of a minority group at the cost of half a billion dollars to the State treasury is a perversion of any kind of theory of equity, affirmative action or otherwise.

We will have in this body more than enough time to debate the whole subject of affirmative action, whether or not it has been a success, whether or not it deserves continuation in whole or in part in the future. In the meantime, however, we need to pass this bill in order to prevent this perverse use of affirmative action and in order to provide justice for literally hundreds of thousands of self-employed Americans. Here, a handful of people who do not deserve tax benefits will be penalized. Hundreds of thousands of hard-working self-employed Americans will at least retain, and ultimately have a slight increase, in a tax deduction for a highly worthy social and economic purpose.

This bill, in other words, does justice to the self-employed, ends a terrible loophole in the field of affirmative action, ends a loophole in the earned-income tax credit, and ends up helping us in some slight manner to reduce our deficit.

We very rarely get bills through this House in which every single element is a plus for our society, and it deserves the support of all Members of the Senate.

Mr. DOMENICI. Mr. President, April 15, is only 22 days away and unless the President signs a bill restoring the 25-percent health insurance deduction for the self-insured more than 4 million small business persons will experience yet another tax increase.

If a person is doing business as a corporation, health insurance is 100 percent deductible. Under the tax law in effect without this legislation, zero

percent, zip, none of their health insurance costs is deductible for the self-employed. There is no tax policy justification for treating corporations one way and the self-employed another. The majority of all businesses in this country are self-employed. These are often firms with very little cash, a good idea and talent struggling to make a success. Once they do succeed, they are the ones that create nearly two out of every three net new jobs. These small firms have sustained this job-creating record for more than 20 years. Clearly, the Tax Code should not treat them so shabbily.

The need for the deduction is indisputable. Unincorporated business owners experience the worst of all possible worlds in the health insurance marketplace. Usually they can only buy an insufficient health insurance policy for a very high price and they are denied the same incentives and tax treatment enjoyed by incorporated, bigger businesses.

If this legislation becomes law, the self-employed will be able to take 25-percent deduction for their health insurance costs on their 1994 taxes and receive a 30-percent deduction for tax years 1995 and beyond. I am pleased that Congress is taking this step to address the health insurance deductibility gap and to make it permanent.

We really should be working to achieve 100-percent parity and equity with corporations so that all businesses, regardless of form, would be treated the same. Total deductibility has been a top priority of the various State small business conferences which have been held prior to the 1995 White House Conference on Small business. In the mid-1980's, I sponsored legislation that was enacted calling for a White House Conference on Small Business once every Presidential term. These are valuable conferences because they help identify legislative priorities. In the past, a vast majority of the Small Business Conference recommendations have been enacted into law. I hope we will be able to make good on that record when it comes to the deduction of health insurance for the self-employed.

In addition to tax policy fairness and job creation, restoring the deduction for the self-employed is important because the self-employed are one of the largest groups of uninsured citizens in America. There are 3 million self-employed Americans without health insurance. The 30-percent deduction is a small, but meaningful incentive for unincorporated business owners to purchase health insurance for themselves and their families.

In New Mexico, there are 75,000 self-employed individuals about one-third of them take advantage of the deduction. This number does not include farmers and ranchers who are another group that will benefit from the tax law change we are making today.

I sincerely hope the Congress can complete it work on this legislation in

time for the April 15 filing deadline. Making the deduction permanent will stop the uncertainty that has historically accompanied this section of the Tax Code. It will help millions of small business entrepreneurs, farmers, and ranchers provide health insurance for their families.

Mr. GRASSLEY. Mr. President, I want to lend my strong support for H.R. 831 to make the self-employed deduction permanent and to raise it to 30 percent.

There had been a number of threats to hold this legislation up by filibustering or offering numerous contentious amendments. I'm very glad that these threats disappeared, because holding up this bill would have only hurt the millions of taxpayers that are waiting for this relief.

Mr. President, most of the major health care bills introduced in the last Congress called for an increased extension of the 25 percent health insurance deduction for the self-employed. There's a broad consensus that an increased health insurance deduction would contribute to tax fairness and would also lead to a significant reduction in the number of uninsured Americans.

Unfortunately, as we all know, the self-employed health insurance deduction expired on December 31, 1993, with the understanding that an extension, and possible expansion, would be part of health care reform in 1994. However, we all know what happened to President Clinton's disastrous health care reform effort. And, unfortunately, the self-employed deduction went down with it.

Mr. President, if the 25-percent deduction is not retroactively reinstated, the self-employed will be hit with a sizable tax increase. Moreover, it would be a tax increase on predominantly middle-income persons since about 73 percent of those persons who pay self-employment tax earn under \$50,000 in adjusted gross income.

Mr. President, I have introduced a separate bill that would reinstate the 25-percent deduction for the 1994 tax year, and then increase the deduction to 50 percent this year, 75 percent next year, and 100 percent the year after.

Organizations as diverse as the Farm Bureau, the National Federation of Independent Businesses, the Association for the Self-Employed, and the National Restaurant Association support this legislation.

I look forward to the Congress finally dealing with this problem by taking care of the 1994 tax year, making it permanent and increasing it to 30 percent. Hopefully, we will be able to expand the deduction up to 100 percent at a later date.

Mr. MCCAIN. Mr. President, I strongly support legislation to permanently extend and expand the health insurance tax deduction for self-employed individuals. In addition to allowing these individuals and their dependents to deduct 25 percent of the cost of their

health insurance for 1994, it will allow them to deduct 30 percent of these costs for all future years. This bill, which addresses one of the most unfair provisions in the Tax Code, is fully paid for without adding a penny to the budget deficit by eliminating an outdated and inequitable corporate tax break.

This issue has justifiably been a major concern to the small business community for a long time. The 25 percent deduction for the self-employed was first contained in the tax Reform Act of 1986. Due to congressional inaction, it expired at the end of 1993. Consequently, if we didn't pass an extension before April 15, self-employed individuals would not have been able to deduct any of their health insurance expenses this year. This would have been incredibly unfair. Employees of corporations continue to be able to deduct almost all of their health insurance costs.

Since 1989, we have been keeping small business in limbo each year while Congress decides whether to re-extend this tax deduction. Small businesses are extremely important to our country. In Arizona, they are the fastest growing component of our economy and, in aggregate, our largest source of employment. They rely upon the modest insurance tax benefit that they are entitled to receive. By passing this bill today, and by making it retroactive so that the deduction can be taken this year, we make a major step forward in providing equity and certainly to small business people throughout our Nation.

Throughout the health reform debate last year, I argued that the deduction for self-employed individuals should be expanded to be comparable to the full deduction that other employees receive. I further contended that the result of allowing the deduction to expire would have been to substantially increase the number of uninsured Americans. It would have imposed a large burden on individuals who we should be helping, those who have taken the initiative and risk associated with small business and self-employment. Today, we vote to start to remedy their problems.

Passing this extension and expansion of the self-employed insurance tax deduction today is a major step in the right direction. I urge President Clinton to sign this bill into law as soon as possible. It is outrageous that self-employed individuals are not permitted to deduct the same percentage of their health insurance costs as do employees of large corporations. It is even more outrageous that we almost took away the small amount that they can currently deduct, and may still do so if President Clinton does not act quickly.

I remain committed to ensuring that all Americans receive the same tax advantages in deducting their health insurance, and to creating a more equitable and efficient health care system.

Mr. KENNEDY. Mr. President, with passage of H.R. 831, the Senate begins the effort to pick up this year where we left off last year on the very important issue of health care reform.

To some extent, this legislation simply extends a tax break for health insurance for small business that expired last year because it was closely related to other health reforms that also failed to pass.

Many of us had hoped to use this legislation as an opportunity to revise this tax deduction and make it fairer to all those involved in small businesses—employees as well as owners.

But because the tax deadline is so near, there is no real opportunity to have such a debate at this time. Small businesses deserve to have the expired provision extended as soon as possible, so that the applicable law will be clear as they file their tax returns for 1994. Many of them purchased their health insurance in expectation that the tax deduction would be continued, and it would be unfair to them to let it lapse now. So I join with many other Senators in expediting action on this bill.

But it is appropriate to point out the key issues involved in this tax incentive, and I am confident we will have an opportunity to address them on other tax bills and as part of our effort in the coming months to enact health reform in this Congress.

In the wake of our failure to enact health reform last year, the health care crisis facing American families has continued to grow worse. Last year, the number of uninsured increased by more than 1 million, to over 40 million of our fellow citizens. If current trends continue, the number of uninsured will exceed 50 million in the year 2000—1 in every 5 nonelderly Americans. But for the expansion of public health insurance coverage to more than 10 million people in the past decade, the current situation would be even worse.

Even those who have insurance are not secure. No family can be confident that the insurance which protects them today will be there for them tomorrow if serious illness strikes.

The decline in health insurance coverage on the job is especially serious. As recently as 1988, two-thirds of all nonelderly Americans received coverage through their employer. Today, that number has fallen to 61 percent. By the year 2000, only about half of all nonelderly Americans will be able to depend on private, job-based coverage for the health protection they need for their families and themselves.

Few, if any, people are more seriously victimized by the health care crisis than small business owners and their employees. If they try to buy coverage, they routinely face insurance company markups as much as eight times greater than large businesses. Despite reforms enacted by many States in recent years, small businesses in many areas of the country still face exorbitant prices or are de-

nied coverage altogether if someone in the business is in poor health, or is elderly, or lives in the wrong part of town, or works in the wrong occupation.

The legislation before us provides some tax assistance for the self-employed, including the owners of small businesses, but I am disappointed that the imminent tax filing deadline prevents us from taking this opportunity to deal with the problems in a more balanced and more effective way.

The legislation offers a tax subsidy of \$800 million a year—\$8 billion over the next 10 years—to help the self-employed purchase the coverage they need. Many, many citizens in our society need help in purchasing health insurance. For \$800 million a year, we could do a great deal to insure children, or give greater health security to workers who lose their jobs, or more assistance to senior citizens struggling desperately to pay the high cost of long-term care or prescription drugs.

But the entire \$8 billion in this bill goes to the owners of small businesses. No one else benefits—not even the employees of those businesses. In fact, more than \$3 billion of these funds goes to people making more than \$50,000 a year. More than \$2 billion goes to people making \$75,000 or more—and that isn't fair. The wealthier they are, the bigger their tax benefit. Changing the tax deduction to a tax credit would be fairer, and making the tax credit refundable would be even fairer.

But if we're going to make the current system fairer to small business owners, we should at least make it fairer to their employees too. Small business owners and their families deserve help—but so do their employees and their families.

Under current tax law, any business, large or small, that provides health insurance to its employees can deduct the cost of that insurance as a business expense, just as it can deduct the wages paid to its employees.

The employees who receive the insurance get a significant tax break too, because the value of the insurance is a fringe benefit that is not counted as income to the employees for tax purposes.

This favorable tax treatment was one of the principal engines driving the expansion of private, job-based health insurance coverage in the past generation. It has also been a major factor in helping to make the loss of coverage in recent years less serious than it would otherwise have been.

This tax exclusion for fringe benefits is also one of the most expensive tax subsidies in the entire Internal Revenue Code. It will cost the Treasury \$60 billion this year, and that revenue loss will rise to \$94 billion in the year 2000.

Under a quirk in the tax laws, however, owners of small businesses that are not incorporated were not eligible for this tax break. In fact, they were at a serious disadvantage. No matter what contribution they made to health

insurance coverage for their workers—and some small businesses do make such a contribution—the owners still could not deduct the cost of their own insurance.

So in 1986, Congress reduced this disparity by granting a separate tax deduction for small business owners, equal to 25 percent of the cost of the insurance they bought for themselves. Many people feel that the deduction should be 100 percent, in order to achieve full parity with managers of large corporations, and there is a good deal of merit in that view, at least in cases where the owners provide coverage for their employees.

The 1986 deduction was enacted on a temporary basis. It was extended by Congress on several occasions, but it expired at the end of 1993. A further extension was considered in 1994 as part of comprehensive health reform, but it died when the overall health reform effort failed.

The question now is whether, in this time of limited resources, it is fair to restore the subsidy—and make it permanent—and even sweeten it from a 25 percent deduction to a 30 percent deduction—for small business owners at a cost of \$800 million a year, but do nothing for the employees of those small businesses.

Even large corporations don't do this well. The managers of large, self-insured corporations are not eligible for a tax break that is greater than the tax break given to their workers. Yet under the committee bill, owners of small businesses are eligible for the tax break even if they make no contribution at all to the cost of their workers' coverage.

Yet employees of small businesses have even more difficulty than their employers in obtaining good coverage. It is bad enough that 18 percent of all workers are uninsured. It is worse that 25 percent of the self-employed are uninsured. But it is even worse that 33 percent or workers in firms with fewer than 10 workers are uninsured.

The smaller the business, the more serious the problem. More than 90 percent of firms with over 250 employees offer coverage to their workers. But only a third of firms with fewer than 10 workers offer coverage to their employees.

This legislation does the right thing by helping the self-employed. But it should have gone farther. It should have helped both the owners and their employees.

Under this bill, mom and pop, the owners of the small mom and pop store, get a tax break, but the cashier or the worker in the stock room does not.

The partners in the law firms get the tax break, but the secretaries and the filing clerks and the paralegals do not.

The doctors in the group practice get the tax break, but the nurses and technicians and lab assistants and receptionists do not. And that isn't fair.

A fairer bill could have maintained the 30 percent deduction for the small business owners, as provided in the committee bill. But it should have required them to make group health insurance available to their workers as a condition of taking the deduction for themselves.

The owners would not have had to make any contribution to the cost of the coverage for their employees. They would only have to make the coverage available for the employers to purchase themselves. But employees exercising this choice should also be eligible for the same 30 percent tax break available to the owner.

This proposal is not an employer mandate. It does not require employers to contribute to the cost of coverage. It does not even require employers to offer coverage to their employees. All it says is that if they want to take advantage of a tax break to purchase health insurance for themselves, they will have the minimal obligation of arranging the availability of group coverage for their employees.

This proposal is a modest one. It does not even go as far as the Republican health reform bills offered by Senator DOLE and Congressman Michel last year. The Michel bill required all employers to make coverage available to their workers, regardless of whether the employers took a tax deduction for their own coverage. The Dole bill required all employers to administer a payroll deduction program for their employees, even if the employers took no tax deduction for themselves.

This proposal is not an expensive one—just a fair one. Final cost estimates are not yet available from the Joint Tax Committee. But it is likely that the program could be financed by using some of the excess revenue generated by the bill before us, or by retaining the level of the deduction at 25 percent instead of raising it to 30 percent.

Small business owners on the whole are not a wealthy group, and they often have trouble obtaining affordable insurance. They need the help that we are providing in this bill. But their employees have even lower incomes and are even less likely to be insured. Surely, they are at least as deserving a tax subsidy as the owners of the business.

This proposal has other benefits for workers, in addition to the tax subsidy it provides. Group coverage is less expensive than individual coverage. A majority of States have adopted limits on preexisting conditions and limits on premiums. They guarantee the issue of policies and the renewal of policies for such group coverage.

But only a handful of States have enacted comparable rules for individual coverage. By assuring the availability of group coverage to a broader number of people, the benefits of the insurance reforms already enacted by some States can be extended to many more citizens who need them.

Finally, a fair bill should provide tax parity for small business owners who

do contribute to the cost of insurance coverage for their employees. They should be able to deduct 100 percent of the cost of their own coverage, if they pay the full coverage of their workers as well, as some small businesses already do.

Under the reform I favor, whatever share they provide to their workers would also be deductible for them. If they pay 70 percent of the premium for their workers, they could deduct 70 percent of their own premiums. They would have full parity with the manager of a large business.

In summary, the committee bill provides a tax subsidy for health insurance for the owners of small business. I regret that it does not provide a similar tax subsidy for the employees of small business too.

During the course of this Congress, there will be opportunities to consider measures to expand health care for the employees of small businesses, for other members of working families, for children, and for senior citizens. When these reforms come to a vote, I hope that the Members of the Senate will remember that these Americans need health care, too.

I also intend to do all I can, in these times of deep budget cuts and limited Federal resources, to see that the large tax subsidies now available through the Internal Revenue Code meet the same strict scrutiny that Congress is giving to other forms of Federal spending. We made bipartisan progress yesterday by extending the line-item veto to tax subsidies, and we need to do more to rein in this rapidly growing part of the Federal budget.

Mr. GRAMM. Mr. President, I rise today to voice my support for H.R. 831 and the protections it will provide to America's self-employed business owners—the men and women who create the jobs on Main Street.

Today, the Senate is finally ready to deliver the tax relief that should have been provided a long time ago.

And today, more than 3 million small business men and women—including as many as 146,000 in my home State of Minnesota—are breathing a sigh of relief.

Up until last year, the self-employed were allowed to deduct 25 percent of their health insurance premiums.

It was a powerful incentive: Small business owners were much more likely to buy insurance for their employees when they were offered an incentive to purchase health insurance for themselves.

That deduction, however, was allowed to lapse in December 1993 when it appeared that Congress would address health care reform in 1994.

But health care reform never materialized—and Congress never restored the deduction.

The self-employed have seen their 25-percent deduction expire five times over the past 8 years, leaving them in the precarious position of trying to second guess Congress each time as to

whether the deduction would be extended.

H.R. 831 will restore the 25-percent deductibility for 1994—increase it to 30 percent this year—and make it permanent.

That is good news for the 3.2 million unincorporated, self-employed Americans the U.S. Treasury Department estimates would claim the deduction on their 1994 returns.

H.R. 831 moves us in the right direction, and I am pleased to join my colleagues in acting swiftly today to approve this desperately needed tax relief.

Yet, Mr. President, we should not look at 30 percent deductibility as our final goal.

We should use this opportunity during the 104th Congress to give small businesses the same benefit enjoyed by big business and their employees—by increasing the health insurance deduction to 100 percent for 1995 and beyond.

That is why I have also committed my support to S. 262, the Grassley-Roth-Pryor-Dole 100 percent deductibility bill.

Self-employed face the worst of all possible worlds in the health insurance marketplace.

Far too often, there aren't enough options—the price is too high—and the self-employed are denied the very incentives and tax treatment big business has come to expect.

And too often, the self-employed lack access to cost-saving managed care arrangements because insurers are reluctant to create and market them in the small towns and rural areas where most self-employed are located.

Even when they do buy insurance, self-employed business owners often pay approximately 30 percent more than larger companies for similar benefits.

That is because of costly State mandates for specific types of insurance coverage, which prevent self-employed business owners from shopping for only the basic care that they and their employees might need.

Larger firms that self-insure, on the other hand, are not subject to these costly mandates. The health insurance deduction helps small business owners defray at least some of the high cost of insurance.

The businesses that would benefit most from deductibility legislation represent almost 10 percent of the working population, and cover a tremendous variety of employers—from farmers and florists—grocers and bankers—to smalltown clothing stores, hardware stores, and photographers.

Mr. President, a tax deduction for the cost of insurance premiums would go a long way to help these self-employed business owners and their employees—especially in high-risk fields such as agriculture, where the hazards of the job often result in relatively high health insurance costs.

The health deduction is simply good business—a simple way for the Federal Government to help the people who create the jobs and deliver the paychecks on Main Street.

Small business needs encouragement, along with some incentives, to survive and continue creating jobs—providing for their employees. It is in our best interest to see that they do.

Since the 1970's small business has created two of every three new jobs in this country, and a substantial majority of those jobs were created in firms with fewer than five employees.

Congress should not neglect these entrepreneurs, Mr. President.

Self-employed business owners are the very people whose firms will have to thrive in order to create the jobs of the future.

These are often people with very little cash, but a lot of good ideas and talent, struggling to make their ideas work.

For them, the health insurance deduction could mean the difference between an "Open for Business" sign on the door and one reading "Going Out of Business."

It is time, Mr. President, for Washington to treat America's job providers equally.

I want to thank my colleagues for coming together in a bipartisan manner to ensure that 3.2 million more Americans will have access to more affordable care.

In fact, this is our first step toward serious and sensible health care reform.

It is legislation like H.R. 831 which I believe helps restore the people's faith in this great institution.

Mr. President, our ultimate aim should be to give the self-employed the same 100 percent health insurance deduction we've granted to incorporated businesses.

But today, passage of H.R. 831 moves us closer toward a goal we all share: Insuring more people, under policies that cost less, that allow them greater access to the health care services and providers they choose.

Mr. DASCHLE. Mr. President, I am pleased we will pass legislation today that, if enacted, will finally make permanent the health insurance deduction for the self-employed. This certainly will be a victory for small business in America.

During my entire tenure in the Senate, I have supported and cosponsored legislation to make the deduction permanent. It is very gratifying, therefore, to see that an overwhelming number of my colleagues share this goal.

Extension of the deduction is a bipartisan issue—one on which there is a very broad consensus. A letter signed by 75 Members of this body, earlier this year, bears testimony to that fact.

For too long, small businesses, including farmers, have been treated unfairly compared to corporations. Corporations may deduct 100 percent of the cost of qualified health insurance they purchase. But the self-employed do not receive equal treatment. In the past they have been able to deduct only 25 percent of the cost of purchasing health insurance for themselves and their families.

What is more, small businesses have not been able to rely on the availability of this deduction from year to year, preventing them from budgeting for their health insurance costs. For many, the existence of the deduction means the difference between having health insurance or not having it at all.

Frankly, it is not clear why this deduction was subject to sunset in the first place, often forcing an annual extensions of the measure. This is not a case of a controversial provision needing further review. Virtually all Members agree that, as a matter of fairness, the self-employed should be able to deduct at least some portion of these costs, if not the full amount.

I am also pleased that the deduction will be increased to 30 percent. It is my hope that at some point in the future we can increase the amount of the deduction; though it is of paramount importance that any further extension be offset appropriately.

I regret that we were unable to pass this measure earlier this year. Most farmers who are self-employed faced a March 1 filing deadline for their 1994 tax returns. Assuming the measure we are considering today is passed, they will have to go to the expense of filing amended returns for 1994. This situation could have been avoided if not for unnecessary delay in the House of Representatives unrelated to the self-employed deduction.

I am concerned that funding for this measure relies on the repeal of section 1071 benefits used to promote minority ownership of broadcast facilities. I would prefer that section 1071 benefits be reviewed in the context of a comprehensive analysis of affirmative action programs, as the administration has suggested. I ask unanimous consent that the administration's "Statement of Administration Policy" on H.R. 831 be printed in the RECORD at the close of my remarks.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 1.)

Mr. DASCHLE. I am pleased that the Senate was able to move this bill so quickly. In light of this, I am optimistic that the extension of the deduction will be enacted in time for the remaining self-employed to take advantage of it before they file their returns on April 15.

With the passage of the permanent extension of the self-employed health insurance deduction today, we can all claim victory for bringing greater fairness in the Tax Code to small businesses and for helping ensure that more Americans are covered by health insurance.

EXHIBIT 1

STATEMENT OF ADMINISTRATION POLICY

H.R. 831—PERMANENTLY EXTEND THE TAX DEDUCTIBILITY FOR HEALTH INSURANCE COSTS FOR SELF-EMPLOYED INDIVIDUALS (ARCHER (R) TX AND 3 COSPONSORS)

The Administration supports the primary purpose of H.R. 831, as reported by the Senate Finance Committee—to reinstate for 1994 the 25 percent tax deduction for health insurance premiums for self-employed individuals and increase the deduction to 30 percent on a permanent basis thereafter.

The Administration, however, opposes one of the bill's offsets—i.e., the outright repeal of the current tax treatment for the sale of radio and television broadcast facilities and cable television systems to minority-owned businesses (so-called "section 1071 benefits"). The Administration is undertaking a comprehensive review of affirmative action programs, including certain aspects of section 1071 benefits. As part of the section 1071 review, the Administration will consider possible modifications to the ownership and holding period requirements as well as caps on the amount of gain eligible for deferral.

While the Administration, in the FY 1996 Budget, proposed limiting earned income tax credit (EITC) eligibility based on certain kinds of investment income, the Administration strongly believes that the cap on such income—as set forth in this bill—should be indexed for inflation.

The Administration supports the provision in H.R. 831 that would tax expatriating citizens on untaxed gains—a provision which is very similar to one included in the President's FY 1996 Budget.

SCORING FOR PURPOSES OF PAY-AS-YOU-GO

H.R. 831 would affect receipts; therefore, it is subject to the pay-as-you-go requirement of the Omnibus Budget Reconciliation Act (OBRA) of 1990.

The Administration's preliminary scoring estimates of this bill are presented in the table below. Final scoring of this legislation may deviate from these estimates. If H.R. 831 were enacted, final OMB scoring estimates would be published within five days of enactment, as required by OBRA.

PAY-AS-YOU-GO ESTIMATES

(Receipts in millions)

	1995	1996	1997	1998	1999	2000	1999-2000
SE Health	-513	-525	-571	-621	-678	-740	-3648
FCC	399	449	213	220	226	233	1740
EITC		23	464	507	543	576	2113
Citizen	60	200	300	410	530	650	2150
Other	8	23	32	40	44	48	195

PAY-AS-YOU-GO ESTIMATES—Continued

(Receipts in millions)

	1995	1996	1997	1998	1999	2000	1999- 2000
Totals	- 46	170	438	556	665	767	2550

Note.—

SE Health — 30 percent tax deduction for self-employed persons (includes 25 percent tax deduction retroactive to 1994).

FCC — Repeal of current tax treatment on sale of broadcast facilities to minority-owned businesses.

EITC — Modification of the Earned Income Tax Credit.

Citizen — Bar citizens from renouncing their citizenship to avoid tax obligations incurred before they renounced.

Other — Change in Section 1033 of the Internal Revenue Code.

Ms. SNOWE. Mr. President, I rise this morning to express my strong support for passage of H.R. 831, legislation which restores the 25-percent tax deduction for the health insurance costs of the self-employed.

At a time when America's small businesses are under virtual attack from Federal regulations and mandates, we must take a leadership role in Congress to bring them the relief they deserve.

In order to create jobs in Maine and across America, we need to assist small businesses in any way we can; they are the engine that keeps our Nation's economy running. Businesses with fewer than 10 employees make up more than 85 percent of Maine's jobs, and, nationally, small businesses employ 54 percent of the private work force. In 1993, small businesses created an estimated 71 percent of the 1.9 million new jobs. When we call small businesses the engine of our economy, we mean it—and America's small are jump-starting our economy in all 50 States.

From investors to startup businesses, self-employed workers make up an important and vibrant part of the small business sector—and too often they are forgotten in providing benefits and assistance. Indeed, the 11 percent of uninsured workers in America are self-employed. By extending tax credits for health insurance to these small businesses—which is what H.R. 831 does—we will help provide health care coverage to millions of Americans.

There is an old saying that is particularly appropriate this time of year: "Nothing is certain but death and taxes." The 3 million self-employed in this country are particularly aware of the tax part this year, as they have sat and watched and worried about whether we would restore the 25-percent deduction before they had to pay Uncle Sam on April 17.

Earlier this year, I joined 74 of my colleagues in asking the majority leader and the minority leader to expedite the passage of this legislation because of its importance to the self-employed.

In doing so, I promised that I would not offer any amendments and that I would vote against any amendments offered, again, in order to expedite its passage. At this late date, we cannot keep the self-employed taxpayer hostage any longer. As it is, we have forced them to wait until the very end of the tax period to file.

I would like to thank the Senator from Oregon [Mr. PACKWOOD], chairman of the Finance Committee, for getting this bill to the floor and for getting agreement to make this deduction a

permanent part of the tax code. That way, neither the self-employed, nor Congress, will have to go through this exercise again. I know that the 74,000 self-employed in my home State of Maine will breathe a sigh of relief once we complete action on this bill.

After all, it is not as if there is disagreement on the need to assist the self-employed in this manner. In fact, amid all the disagreement on health care reform over the last 2 years, this is one of the areas where we all agreed. Why? Because the self-employed—the hard-working, tax-paying, job-creating small business men and women of America—cannot afford their own health care insurance. I am particularly pleased that the bill before us expands the deduction to 30 percent for the 1995 tax year. This is an important step in the right direction, as I believe we should expand it further, and grant the same tax treatment to the self-employed that we provide for corporations. In fact, I have introduced a bill to assist small businesses which includes phasing in a 100-percent deduction.

So I urge my colleagues to join me in support of H.R. 831 and in support of the 3 million self-employed Americans who need our help today.

Mr. PRESSLER. Mr. President, let me begin by emphasizing the fundamental reason why we are here today—to extend the 25 percent tax deduction for health insurance costs of self-employed Americans. This is one of the most important items Congress will consider this year.

We must put the needs of self-employed Americans—small business men and women, farmers and ranchers—at the forefront of our agenda. Passing the 25 percent deduction on a permanent basis is a step in that direction. By doing so, these hard-working individuals can make their business plans knowing they can depend on this reasonable deduction. Without the deduction, self-employed individuals will see their taxes increase and their ability to afford health insurance decrease. That is unfair, and must not happen.

Frankly, Mr. President, the legislation we are considering today is a modest deduction, particularly when compared to the corporate deduction of 100 percent, but it is nonetheless critical. It is critical to the 48,000 small business men and women, farmers and ranchers in South Dakota, as well as the millions of other self-employed people across this country.

As a member of the Finance Committee I supported the legislation be-

fore the Senate today. It retroactively reinstates the 25 percent deduction for last year. More importantly, it permanently increases the deduction to 30 percent for 1995 and thereafter. This legislation is a first step toward bringing self-employed individuals onto equal footing with corporations, which are allowed to deduct 100 percent of their health insurance costs.

We have already done a great disservice to our family farmers by not passing this legislation prior to the March 1 filing deadline for their Federal tax returns. It is my hope that we will not do the same for all the other self-employed individuals by missing the April 17 deadline, thereby creating a paperwork avalanche of amended returns.

Approximately 67,200 South Dakotans are either self-employed or are employed by the self-employed. These men and women represent almost 20 percent of South Dakota's total workforce—many of them are farmers and ranchers. This tax deduction makes insurance more affordable for them and their families. Immediate passage of this bill should be a top priority for the Senate.

I know that most of my colleagues agree that this is a bill of critical importance. However, as we all know, controversy surrounds the offset. This is unfortunate because it threatens the timely passage of the 25 percent provision.

I support the offset so that we can get this legislation permanently placed in law and also expand it to 30 percent. The FCC tax certificates program—the program we terminate to pay for this legislation—is no longer justifiable.

When the choice is between giving multibillion dollar corporations a tax break or giving small businesses, farmers and ranchers relief for health insurance coverage, the choice is clear: I side with the hard-working small business people, and farmers and ranchers—not large corporations.

I encourage my colleagues to recognize the core issue here today and to vote to retroactively reinstate the 25 percent deduction for 1994 and to permanently extend the deduction at the 30 percent level thereafter. We must do this for the sake of our farmers, ranchers, small business people, and the families and employees who rely upon them.

I urge my colleagues to vote for H.R. 831 as approved by the Finance Committee, and urge our colleagues in the House to approve it as well.

SECTION 1071

Mr. BRADLEY. Mr. President, section 1071 of the Internal Revenue Code authorizes the FCC to permit sellers of broadcast properties to defer capital gains taxes on a sale or exchange if the sale or exchange is deemed by the agency to be necessary or appropriate to effectuate a change in a policy of, or adoption of a new policy by, the Commission with respect to the ownership and control of radio broadcasting stations. As such, the Commission has used tax deferral certificates for, among other things, the promotion of minority ownership of broadcasting stations and cable television systems.

From a tax perspective, I believe that the FCC's tax deferral program is not appropriate tax policy. Over the past 16 years, and as the author of the Tax Reform Act of 1986, I have consistently advocated that we spend just as easily through the Tax Code as we do through appropriated and mandatory spending. I have consistently opposed these special interest loopholes. Indeed, in this bill, I offered an amendment that eliminated the granddaddy of all tax loopholes—one that benefits those who renounce their U.S. citizenship. By closing this expatriate loophole, we raise \$1.3 billion that incredibly benefited only 12 taxpayers.

Tax loopholes raise taxes on those in society who do not use them and distort rational economic decision-making. Thus, as a member of the Finance Committee, I voted to place a moratorium on section 1071 effective as of January 17, 1995, thereby overturning commercial transactions that would have sheltered approximately \$500 million in capital gains taxes.

I am profoundly disturbed, however, that the issue of affirmative action has been interjected into the underlying issue of how to finance the 25 percent health insurance deduction for self-employed individuals. I support the concept of affirmative action, which is a remedial measure designed to identify qualified women and minorities and afford them the opportunity to enter the mainstream of American life and contribute their skills and talents to make America more competitive on the world stage. Further, I thought it best to consider affirmative action in full, not simply one small provision. As such, I voted in committee to place a 2-year moratorium on the application of section 1071 so that Congress could study the program and alternative ways to increase broadcast diversity.

As the affirmative action debate rages, I will attempt to broaden the discussion to deal with the underlying issues of race in American society. In addition, I will be offering my views and suggestions about how to assure that individuals who are truly discriminated against on the basis of race and gender have a means of obtaining a remedy, not simply lip service. I challenge my colleagues to join me in this discussion.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, I will take but a few moments here so we can finish this bill. First, I want to congratulate the managers of the bill, Senator PACKWOOD and Senator MOYNIHAN.

Mr. President, we start debate today on an issue that is important to many Americans across the country. H.R. 831 seeks to make permanent the deductibility of health care insurance costs for self-employed individuals.

Since 1986, Congress has allowed the self-employed a 25-percent deduction for their health care insurance costs. Almost every year, we have had to extend the deduction, but we failed to extend it last year when it expired on December 31, 1993. We were told that we would address this matter in the health care reform debate. And we did address it. In some bills, including mine and Senator PACKWOOD's, we sought to allow up to 100 percent deduction phased in over a period of time. But, in the end, we did nothing. None of the health care reform bills had enough support to pass last year, and so, here we are today again looking at this issue.

H.R. 831 seeks to make this deduction permanent. We don't want to leave the 3.2 million tax filers in 1994, hanging on the edge of a cliff every year. And we do not want to tell them that although corporations can deduct 100 percent of their health care insurance costs, small businesses cannot. We decided 9 years ago that in order to make the playing field more equitable, we should allow small businesses to deduct their health care insurance costs. But we did not give them 100 percent, we gave them only 25 percent—one quarter of what corporations are allowed to deduct. Today, we seek to increase that amount permanently to 30 percent. And we must continue to fight for parity.

In fact, many small businesses strongly believe that increasing the deductibility begins to solve the disparity between self-employed and incorporated businesses and will give even more individuals access to affordable health insurance. I agree when they say that. I have received many letters from various small business and agricultural associations supporting my efforts to increase the deduction even more than the 30 percent in the committee bill. Letters from: The National Federation of Independent Business, the American Farm Bureau Federation, the National Restaurant Association, the National Association of Wheat Growers, the National Corn Growers Association, the American Soybean Association, the Small Business Legislative Council, the National Small Business Unified, the National Association of Home Builders, the Healthcare Equity Action League [HEAL], Communicating for Health Consumers, U.S. Chamber of Commerce, the National Association of Private Enterprise, and the Society of American Florists.

I know that many in this Chamber share their belief—so much, in fact, that the minority leader and I have sent a letter to both the chairman of the Senate Finance Committee and the chairman of the House Ways and Means Committee to strongly consider raising the deductible percentage higher than 30 percent, but within the confines of the offsetting revenues.

EMPLOYEE DEDUCTION

I also share the concerns of many of my colleagues over the many employees who pay their own health insurance, but do not get to deduct any amount. There is no doubt, that these people deserve fair and equal treatment as well. I am hopeful that when we return to health care reform we will address this issue.

Many believe that the health care reform issue is dead, but it is not. We still have people without insurance. We still have people who are denied insurance because of existing illness. We still have people who cannot change their jobs in fear of losing health insurance. To me, and many of my colleagues, health care reform is still very much alive, and the issue of taxation of employees who pay for their own health insurance, will be addressed.

OFFSETTING REVENUES

In the Senate Finance Committee last week, under Chairman PACKWOOD's leadership, we passed a bill that not only extended the deduction permanently, we raised the deductibility percentage to 30 percent. And we did so by repealing a Federal Communications Commission [FCC] program that I believe is not only ineffective, but costs the Federal Government billions of dollars. This program has gained notoriety in the newspapers in the recent months because one particular transaction could cost the Government in excess of \$500 million. One company, 500 million dollars.

The FCC, the agency that administers this program, does not know how much the entire program has cost the Government. And neither does the Treasury Department. The program has been in existence for 17 years, and yet we have no idea how much this has cost the Government. One of my distinguished colleagues on the Finance Committee said it right, "If you are looking for the enemy, the enemy is us." And so, members of the Senate Finance Committee overwhelmingly repealed this program.

THE FCC'S TAX CERTIFICATE PROGRAM

Congress, in 1943, gave the FCC authority to grant tax deferrals to owners of broadcast facilities who were forced to sell their properties to break up monopolies during World War II. Congress' intent was to, and I quote, "Alleviate the burden of taxpayers who had been forced to sell their radio stations under difficult wartime circumstances."

The FCC, in 1978, expanded the provision to give a tax preference to radio, television, and later cable broadcasters

who sold their properties to minority-owned firms. For this policy, the FCC defines minorities as including "Blacks, Hispanics, American Indians, Alaska Natives, Asians and Pacific Islanders."

The greatest flaw in this program is that the economic benefit does not go to the minority buyer, the economic benefit goes to the seller. It is like a kickback. If you sell to me and not the other guy, I will give you a little extra something. And I will not be paying for it, the American taxpayer will. I do not understand it, and I do not understand why people would think this is benefiting minorities when the monetary gain is going to the seller.

These are also million-dollar deals. These are tax breaks to millionaires. The average sales price for transactions in which tax certificates were granted is \$3.5 million for radio, and \$38 million for television. Although there is no data currently available for the cable industry, one of the transactions in the cable industry seeking to utilize the tax certificate, is \$2.3 billion.

EFFECTIVE DATE

Some have tried to say that this bill's effective date is retroactive. And that this bill is crafted to target one particular transaction—the Viacom transaction. I disagree.

Chairman ARCHER of the House Ways and Means Committee issued a press release on January 17 of this year entitled, "Archer Announces Review of FCC Tax Provision," putting all FCC tax certificate transactions on notice. It reads, and I quote:

The Committee on Ways and Means will undertake this review immediately to explore possible legislative changes to section 1071, including the possibility of repeal. Any changes to section 1072 may apply to transactions completed, or certificates issued by the FCC, on or after today, January 17, 1995.

Two days later, on January 19, representatives from Viacom, House Ways and Means Committee, and the Joint Tax Committee met. And Viacom was fully apprised of the situation and the possible consequences on their transaction.

Nevertheless, the parties in the Viacom transaction signed an asset purchase agreement the following day, and even then I do not believe it was not a binding contract. The purchase agreement is contingent upon the FCC granting a tax certificate. They filed a tax certificate application with the FCC on February 3, with full knowledge that Congress would be acting to repeal the program. On February 6, 1995, H.R. 831 was introduced, and reported by the Ways and Means Committee on February 8. The bill passed the House on February 21.

This transaction is not a small one. This a \$2.3 billion transaction. The parties involved are sophisticated players in the mergers and acquisitions world. A world where players are accustomed to reacting quickly. It is clear to me that the parties of this transaction were given reasonable expectation that

the FCC tax certificate program would be repealed. And it is clear to me that they decided to sign their agreement regardless. And, remember, they did not file for an FCC tax certificate until February 3. Their agreement continues to be contingent upon a tax certificate being granted.

TURNING TAX BREAKS AND LOOPHOLES FOR MILLIONAIRES INTO HEALTH CARE FOR THE ORDINARY CITIZEN

Let me be clear, if we do not pass this legislation today, then what we are doing is raising taxes for 3.2 million Americans. Make no mistake about it. If we do nothing today, then they will pay more in taxes this year than they did last year.

What we are trying to do here today; what we will accomplish here today is taking a million dollar, unjustifiable tax break for millionaires, not minorities, and turn them into health care for ordinary Americans. Americans who really need it.

Let me also remind everyone here that this bill passed the House of Representatives with an overwhelming majority vote of 388 to 44. I urge my colleagues to vote for this bill.

AFFIRMATIVE ACTION

Mr. DOLE. As the Washington Post reported today, the overwhelming majority of the American people believe that the race-counting game has gone too far.

I am proud of my own civil rights record. I have supported affirmative action in the past. That's no secret.

But my past record did not disqualify me last December from asking the Congressional Research Service to compile a list of all Federal preference laws and Regulations.

And my record does not disqualify me today from raising legitimate questions about the continuing fairness and effectiveness of affirmative action, particularly when the affirmative-action label is used to describe quotas, set-asides, and other group preferences.

Equal treatment, not preferential treatment, should be the standard. Equal opportunity, not equal results, must be the goal.

Earlier today, my distinguished colleague from Maine, Senator COHEN, gave a very eloquent speech on the Senate floor where he pointed out that America is not a color-blind society, and he is right. Discrimination continues to exist. The color-blind ideal is just that—an ideal that has yet to be achieved in the America of 1995.

But, Mr. President, do you become a color-blind society by dividing people by race? Do you achieve the color-blind ideal by granting preferences to people simply because they happen to belong to certain groups? Do you continue programs that have outlived their usefulness or original purpose? The answer to these questions is, of course, a resounding "no."

I look forward to the completion of the President's review of all Federal af-

firmative action policies, but if the President is seeking a magical "third way," I suspect he is going to run into a dead end: When it comes to the issue of group preferences, you are either for them or against them. There can be no splitting the difference, no "third way."

With that said let us hope that reason prevails as we continue down this road. If we keep our voices low and our intentions good, the debate over affirmative action can, in fact, be an opportunity to unite the American people, and not divide us.

Mr. PACKWOOD. Mr. President, I believe we are prepared to yield back our time.

Mr. MOYNIHAN. Mr. President, I yield back our remaining time.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the committee amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall the bill pass?

So the bill (H.R. 831), as amended, was passed.

Mr. PACKWOOD. Mr. President, I move to reconsider the vote.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PACKWOOD. Mr. President, I move that the Senate insist on its amendment to H.R. 831, request a conference with the House, and that the chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. PACKWOOD, Mr. DOLE, Mr. ROTH, Mr. CHAFEE, Mr. GRASSLEY, Mr. MOYNIHAN, Mr. BAUCUS, Mr. BRADLEY, and Ms. MOSELEY-BRAUN conferees on the part of the Senate.

MORNING BUSINESS

Mr. PACKWOOD. Mr. President, I ask unanimous consent that there now be a period of morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

CHILD NUTRITION PROGRAMS

Mrs. MURRAY. Mr. President, I rise today to talk about my deep concern over the House proposal on the child nutrition program and stand before you today to speak about the questions that I have asked and the answers I have looked to to find out whether this is the right road for this body to go down.